

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RANDY COY JAMES HOLMES (01),

Defendant.

NO. CR21-164 SMJ-1

MOTION TO CONTINUE


Note on Motion Calendar: 8/9/22 at  
1030am.

without oral argument

COMES NOW, BRYAN G. HERSHMAN, counsel for RANDY COY JAMES  
HOLMES, and moves the Honorable Court for a continuance of trial and all related dates.

This Motion is based upon the subjoined Declaration of Counsel for Mr. Holmes.

DATED this 4<sup>th</sup> day of August, 2022



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**DECLARATION OF COUNSEL**

BRYAN G. HERSHMAN hereby declares, under penalty of perjury pursuant to the laws of the State of Washington, that the following is true and correct to the best of his knowledge:

I am the attorney for RANDY HOLMES, the above-listed defendant. At this time, I am moving the court for a continuance of the trial date, and all related dates. I am doing this with the permission of my client. He will sign a waiver of speedy trial to accommodate this request/motion. I will be in Spokane again this weekend or early next week to execute said waiver.

There are several reasons for this request for a continuance.

I have been provided a very extensive amount of discovery from the Government with respect to this case. I have spent many hours preparing my case outline. Mr. Holmes and I have spent significant time going over the evidence. We still have substantial work left before we are trial ready and/or at a point to engage in negotiations. Further, in the Holmes case, there is a unique legal issue that will likely control the outcome of the case. This is a novel issue, and the federal circuits are divided on how this issue may impact Mr. Holmes. The defense is still researching this issue, in particular how it applies to this case. Further, due to the fact that an officer was shot during the course of the facts giving rise to this litigation, a large number of officers had a hand in developing the case of the Government. The issues in this paragraph, alone, create a need to continue the current trial date.

In addition to the aforementioned problems, now that the COVID floodgates of litigation have opened. Accordingly, I have a number of trials for the next several months that are set to go out. This will cause a conflict with the current trial date set in the Holmes case.

1 The first concern I have is, beginning on August 22, 2022, I have a pre-assigned priority trial  
2 before King County Superior Court, ref. *State of Washington vs. Ghassan Shakir*. This is a  
3 four-victim rape case, with Arabic interpreters, involving rather sophisticated issues pertaining  
4 to GPS data pings, as well as DNA, not to mention demanding issues pertaining to 4 victims  
5 and the ~18,000 pages of discovery. Even more, there is media coverage of this case. This  
6 trial will result in a significant commitment of resources by the County of King. In addition,  
7 the arraignment in this case was in May, 2019. The age of this case is attributable to the  
8 complexities of the litigation. Due to all of the above considerations, I have been informed by  
9 the Court that there will be no more continuances, and that I will be in trial on that date. This  
10 case was to have been tried sometime back, but a prosecutor in an unrelated case had a death in  
11 the family, causing her to go on FMLA. This caused a delay in the *Shakir* case. I can explain  
12 this to the Court at the time of the hearing in Mr. Holmes's case.

14 Due to a number of witnesses and the delay caused by interpretation, I am told by the  
15 Prosecutors that the *Shakir* trial will take four-to-six weeks to try. That effectively takes me to  
16 the date of, on or about, October 1, 2022, that I will be in trial in King County Superior Court.

17 On October 18, 2022, I am set to begin a priority trial before the Pierce County Superior  
18 Court, ref. *State of Washington vs. Robert Glen Carpenter*. This case is extremely old, having  
19 been charged in 2018. One of the reasons for the age of this case was an interlocutory appeal  
20 filed by the State seeking discretionary review of a judge's ruling disqualifying the Pierce  
21 County Prosecutor's office from prosecuting this case. Moreover, Mr. Carpenter was a Pierce  
22 County Sheriff's Sergeant at the time this allegation arose. This case received significant  
23 media attention and is still being tracked by media. It has been my experience that media  
24 attention can lengthen a trial. Mr. Carpenter is charged with Assault in the First Degree, with a

1 deadly weapon enhanced, which effectively is an attempted murder-type charge. Significant  
2 expert witness expenses are being expended by both sides. Again, due to the age, severity of  
3 the charges, and the complexities of this case, I am being painted into a corner by Pierce  
4 County Presiding Court. I am set to try this case mid-October. I anticipate this trial will last  
5 about one month. That said, the case of the defense will only last three or four working days.

6 Due to the COVID delay, and an unprecedented homicide rate in the four-county area, I  
7 have a significant number of murder trials that will follow the *Carpenter* case. That said, I can  
8 and will delay those trials in order to litigate the Holmes case, conditioned, of course, upon the  
9 order of this Honorable Court allowing me to calendar this at a time consistent with my  
10 calendar, the calendar of the Court and the calendar of the AUSA.

11 Finally, at the conclusion of the case preparation between my client and I, I anticipate  
12 negotiations will be initiated between myself and the Assistant US Attorney. Point being,  
13 granting this motion to continue, and delaying the start of this trial, will support negotiations, a  
14 potential settlement, and support an economic use of judicial resources.

15 I am asking this Honorable Court to continue the Holmes trial to January 2023. I do not  
16 believe this request will work to the prejudice of either party. Mr. Holmes understands that he  
17 will remain in custody. Further, the Government's case consists mainly of law enforcement  
18 agents involved in a sting operation. Accordingly, losing track of the Government's witnesses  
19 is not an issue. Further, I do not believe this is an unreasonable request since, if convicted, Mr.  
20 Holmes will likely spend the rest of his life in prison. Due to the severity of the charges and  
21 the seriousness of the allegation, I suggest this is a reasonable request. Finally, by memory, I  
22 have been counsel in this case since the end of April/beginning of May, 2022. Some time  
23 passed after entering a notice of appearance before the defense received discovery. A January  
24  
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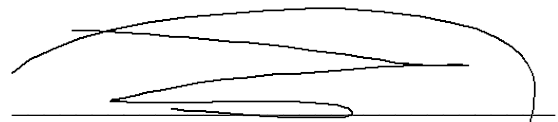
1 trial date will allow the defense approximately 7 ½ to 8 months of time to prepare. Again, on  
2 behalf of Mr. Holmes, I believe a 7 to 8 month pretrial period to be a reasonable request, in  
3 view of the amount of discovery, some sophisticated legal issues, and the severity of the  
4 charges.

5 The Assistant United States Attorney has said she will not object to a short continuance,  
6 but, if I understand her position, she opposes a continuance until after the first of the year.

7 In conclusion, this case has not been sitting on the back shelf. Mr. Holmes and I, and  
8 my staff, have been zealously preparing this trial effort. I am suggesting to the bench that the  
9 current trial date **only allows on/about 5 months to prepare this defense**. That is a very short  
10 period of a time for the dynamics presented by the case of *USA vs. Holmes*. January will allow  
11 the defense about 8 months to prepare. The defense believes this to be an abundantly  
12 reasonable period of time to prepare such a defense.  
13

14 I admittedly find myself between a rock and a hard spot. I request the Court grant this  
15 motion.

16 DATED this 4th day of August, 2022.



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Natalie Crawford

MOTION TO CONTINUE  
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